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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,054	03/02/2004	Dardo Bonaparte Lujan	ALUJA.0102CIP	2861
7590 06/01/2007 David W. Carstens Carstens Yee & Cahoon, LLP Suite 900 13760 Noel Road Dallas, TX 75240			EXAMINER CHAMBERS, TROY	
			ART UNIT 3641	PAPER NUMBER
			MAIL DATE 06/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/791,054

Applicant(s)

LUJAN, DARDO BONAPARTE

Examiner

Troy Chambers

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3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6,8-15,20,25 and 27-34 is/are pending in the application.
- 4a) Of the above claim(s) 3,4,8-15,20,25 and 27-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. Claims 12, 15, 20, 25 and 27-30 are withdrawn as being directed to a non-elected species. On 6/28/2005, the applicant was given an election of species requirement wherein each of the species was directed to a particular figure. In response to the requirement, the applicant elected Species E that corresponded to Figs. 15 and 16. The embodiment of Fig. 15 disclosed a plurality of ballistic panels 26, the ballistic panels made of a plurality of pieces 28. Applicant stated that claims 1-7, 12, 14-20, 25 and 27-34 read on the elected species. However, claim 15 required a ballistic panel. The inclusion of additional panels creates another species separate and distinct from the one previously election. Therefore, claims directed to a panel other than the ballistic panel 26 are hereby withdrawn as being directed to a non-elected species.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2 and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by US 6219842 issued to Bachner. Bachner discloses a bullet proof vest, comprising: plurality of ballistic panels 22, each ballistic panel comprising a plurality of deformable pieces 24 made of

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aramid fibers as shown in Figs. 7A, 7B and 8. The pieces are arranged in at least one plane and each sheet is comprised of fibers weaved in a direction transverse to one another.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2723214 issued to Meyer.

6. Claims 1, 2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by US 2723214 issued to Meyer. Meyer discloses a ballistic panel comprising a plurality of deformable pieces 7 arranged side-by-side and detachably retained as seen in Figs. 1 and 3. The pieces are formed of glass fibers that reads on applicant's "thread fibers" since threads are fibers and fibers are threads. (fiber: 1: a thread or a structure or object resembling a thread, <http://mw1.merriam-webster.com/dictionary/fiber>). The deformable pieces are arranged in at least one plane a plurality of layers that are offset from one another as shown in Figs. 5 and 6. Meyer does not disclose that the pieces form part of a high-tensile strength fabric. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the glass fibers with any one of aramid threads/fibers, polyester and synthetic threads and ultra high resistance polyethylene fibers, since each are known equivalents in the armor art (see, e.g., US 200300200861, US 7197972 and US 5196252) and the selection of any of these known equivalents to stop projectiles would be within the level of ordinary skill in the art.

Response to Arguments

7. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (571) 272-6874 between the hours of 7:00 a.m. to 3:30 p.m., M-F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (571) 272-6873.

Troy Chambers
Primary Examiner
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A handwritten signature in black ink, appearing to read 'T. Chambers', is written over the printed name and title of the examiner.

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TC

25 May 2007